

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.
ANIBUL TORRES
Defendant

CRIMINAL NO. 03-10362-PBS

MEMORANDUM OF SENTENCING HEARING
AND
REPORT OF STATEMENT OF REASONS

Saris, D.J.

Counsel and the defendant were present for sentencing hearing on 3/31/05. The Court has considered the factors set forth in 18 U.S.C. §3553(a), including the sentencing guidelines. The reasons for sentence were stated in open court.

- 1.(a) Were all factual statements contained in the Presentence Report (PSR) adopted without objection?

X yes _____ no

- (b) If no to (a) the PSR was adopted in part with the exception of the following factual issues in dispute:

2. Are any legal issues in dispute?

_____ yes X no

If yes, describe disputed issues and their resolution:

- 2.(a) Tentative findings as to advisory guidelines are:

Total Offense Level: 23

Criminal History Category: II

60 to 71 months imprisonment

48 to 60 months supervised release

\$ 10,000 to \$ 4,000,000 fine

(plus \$ _____ cost of
imprisonment/supervision)

\$ _____ restitution

\$ 200 special assessment (\$ _____ on
each of counts _____)

(b) Are there any legal objections to tentative findings?

____ yes no

3. (a) Remarks by counsel for defendant.¹

yes ____ no

(b) Defendant speaks on own behalf.

yes ____ no

(c) Remarks by counsel for government.

yes ____ no

4. (a) The sentence will be imposed as follows:

Time served months imprisonment (17 months and 8 days)

_____ months/intermittent community confinement

_____ months probation

_____ months supervised release

\$ _____ fine (including cost of imprisonment/supervision)

\$ _____ restitution

\$ 200 special assessment (\$ _____ on each of
counts _____)

Other provisions of sentence: (community service, forfeiture, etc.):

- SUBSTANCE ABUSE COUNSELING AND TESTING
- PROCURE FULL-TIME EMPLOYMENT
- PROCURE G.E.D.

(b) After imposing sentence, the Court has advised the defendant of the defendant's right to appeal within 10 days of the entry of judgment in accordance with FRCrP 32(a)(2).

¹ The order of argument and/or recommendation and allocution may be altered to accord with the Court's practice.

5. Statement of reasons for imposing sentence.
Check appropriate space.

(a) Sentence is within the advisory guideline range

(b) Sentence departs from the advisory guideline range as a result of:

substantial cooperation upon motion of the government

OR

a finding that the following (aggravating or mitigating) circumstance exists that is of a kind or degree not adequately taken into consideration by the Sentencing Commission in formulating the guidelines and that this circumstance should result in a sentence different from that described by the guidelines for the following reasons:

6. (a) Is the sentence under the advisory sentencing guidelines reasonable in light of the factors set forth in 18 U.S.C. §3553(a)

yes no

(b) If no, why is the guideline sentence unreasonable?

(c) Is restitution applicable in this case?

yes no

Is full restitution imposed?

yes no

If no, less than full restitution is imposed for the following reasons:

(d) Is a fine applicable in this case?

yes no

Is the fine within the guidelines imposed?

yes no

If no, the fine is not within guidelines or no fine is imposed for the following reasons:

- Defendant is not able, and even with the use of a reasonable installment schedule is not likely to become able, to pay all or part of the required fine; OR
- Imposition of a fine would unduly burden the defendant's dependents; OR
- Other reasons as follows:

7. Was a plea agreement submitted in this case?

yes no

8. The PSR is adopted as part of the record, either in whole or in part as discussed above and is to be maintained by the U.S. Probation Department under seal unless required for appeal.
9. Judgment will be prepared by the clerk in accordance with above.
10. The clerk will provide this Memorandum of Sentencing Hearing And Report on Statement of Reasons to the U.S. Probation Department for forwarding to the Sentencing Commission, and if the above sentence includes a term of imprisonment, to the Bureau of Prisons.

4/1/05

/s/ Patti B. Saris

Date

United States District Judge